

SEP 20 2005

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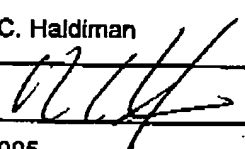
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FACSIMILE TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/931,606
	Filing Date	08/16/2001
	First Named Inventor	Ullrich Thiedig
	Group Art Unit	3724
	Examiner Name	Boyer D. Ashley
Total Number of Pages in This Submission	8	Attorney Docket No. 64251-030

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Charge Deposit Account -08-3460 <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> Affidavits/declarations(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 <input type="checkbox"/> Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b))	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition (Renewed under 37 CFR 1.55(c)) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Request To Rescind Previous Nonpublication Request <input type="checkbox"/> Response to Notice of Allowability <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Application Data Sheet, Copy of Decision on Petition, and Cover Letter
Remarks: <input checked="" type="checkbox"/> Commissioner is hereby authorized to charge fees in this application and any fees which may be required, or any overpayment, to Deposit Account 08-3460. I have enclosed a duplicate copy of this sheet <input type="checkbox"/> Amount: \$ _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual Name	Robert C. Haldiman
Signature	
Date	09/20/2005

CERTIFICATE OF FACSIMILE	
37 CFR 1.18 <u>273-8300</u>	
I hereby certify that this document is being transmitted via facsimile to fax number <u>(571) 379-9244</u> to Office of Petitions, MAIL STOP PETITIONS, Commissioner for Patents, Alexandria, VA 21313-1450.	
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September 20, 2005

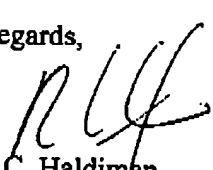
John Gillon, Senior Attorney
Office of Petitions
Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

RE: In re Application of
Thiedig, et al.
Application No. 09/931,606
Filed: 16 August 2001
Attorney Docket No.: 64251-030

Dear Examiner Gillon:

Thank you for accurately pointing out the typographical error in our previous petition under 37 CFR §1.55(c). I note that priority has always been accurately claimed to February 16, 1999 in the application data sheets, and that only the petition itself contained a typographical error noted by you in the order of September 8, 2005, copy enclosed. Attached also please find the Renewed Petition under 37 §1.55(c) including our petition for leave to claim priority to the correct date, February 16, 1999. Finally also attached please find the renewed application data sheet which continues to have the correct date.

Best Regards,


Robert C. Haldiman

RCH/dlc

Enclosures



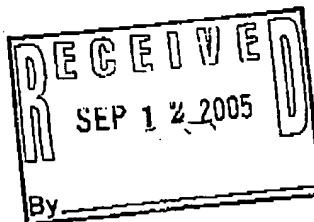
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SEP 08 2005

OFFICE OF PETITIONS

In re Application of
Thiedig, et al.
Application No. 09/931,606
Filed: 16 August, 2001
Attorney Docket No: 64251-030

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.55(c), filed 28 March, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit, as the continuation of foreign application PCT/DE00/00428, of the filing date of foreign Applications identified as "PCT/DE00/00428, 199 06 021.5, filed 15 February, 2000," and "PCT/DE00/00428, 199 06 021.5, filed 15 February, 1999" (sic).

The petition is **DISMISSED**.

A petition under 37 C.F.R. §1.55(c) to accept an unintentionally delayed claim for priority requires:

- The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- The claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be

Application No. 09/931,606

included either in an oath or declaration (37 C.F.R. §1.63(c)(2)) or in an Application Data Sheet (ADS) (37 C.F.R. §1.76(b)(6);

- The surcharge as set forth in 37 C.F.R. §1.17(t);
- A statement that the entire delay between the date the claim was due under 37 C.F.R. §1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and
- The above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition fails to comply with the second and fifth items, above.

Specifically:

- Petitioner sets forth conflicting information as to the applications—i.e., identifying the claims two applications with the same application number but two different filing dates; and
- Petitioner states at the last paragraph of the petition that he “respectfully petitions for leave to claim priority to August 16, 1999,” however, the data set forth in the ADS specifies dates in February of 2000 and February of 1999—not August of 1999.

In this regard, a review of the file record fails to disclose at this writing that the priority information was included properly in an oath or declaration or in an Application Data Sheet in accordance with 37 C.F.R. §1.76(b)(6). Unless provided in an application data sheet, 37 C.F.R. §1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 C.F.R. §1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note MPEP §201.14, page 200-77 (Rev. 2, May 2004), last paragraph, second column.*

In view of the above, compliance with 37 C.F.R. §1.63(c)(2) or 37 C.F.R. §1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the ADS. Any future petition should include a cover letter and be entitled A Renewed Petition under 37 C.F.R. §1.55(c).

Application No. 09/931,606


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.


Frances Hicks
Petitions Examiner
Office of Petitions